

SCS HCS HB 1201 -- SURFACE MINING

Currently, a proposal to operate a surface mine requires the operator to send a notice of intent to operate a surface mine to the last known address of any landowner of record with real property that is contiguous or adjacent to the proposed mine plan area. This bill repeals this provision and requires that the notice be sent to the last known address of any real property landowner of record whose property is within one-half mile from the border of the proposed mine plan area and adjacent to the proposed area, land upon which the mine plan area is to be located, or adjacent land having a legal relationship with either the applicant or the owner of the land upon which the mine plan area is located. If any individual who receives the notification requests a public meeting, the applicant must bear the expenses.

Currently, the Land Reclamation Commission evaluates permit applications for proposed surface mining operations. The bill transfers this authority to the staff director of the commission. Upon completion of the notice of intent to operate a surface mine and any public meetings, the staff director must make a decision within six weeks after completion of the process, rather than the current within four weeks after the public notice period, to issue or deny a permit application. In certain cases, the staff director may seek additional information from the applicant before making a decision to issue or deny the permit. In issuing a permit, the staff director may impose reasonable conditions consistent with specified provisions. The staff director's decision must be deemed to be the decision of the Director of the Department of Natural Resources and subject to appeal to the Administrative Hearing Commission.

The bill specifies the criteria that the Administrative Hearing Commission may consider when reviewing the staff director's permit application decision. If the Land Reclamation Commission changes a finding of fact or conclusion of law or modifies or vacates the decision recommended by the Administrative Hearing Commission, it must issue its own decision which must be subject to judicial review. For an appeal of the commission's decision, the court of appeals district with jurisdiction in the county where the mine is to be located must have original jurisdiction. A judicial review cannot be available until and unless all administrative remedies are exhausted.